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Attorneys for the United States of America

**UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**JESUS MARQUEZ, OLGA MARQUEZ, RAMON
 MARQUEZ, JUANITA MARQUEZ, TAQUERIA
 LOS PRIMOS, TAQUERIA LOS PRIMOS NO. 2,
 LUIS GALINDO, MARTHA GALINDO, BANK
 OF AMERICA, N.A., STATE OF CALIFORNIA
 FRANCHISE TAX BOARD, STATE OF
 CALIFORNIA EMPLOYMENT DEVELOPMENT
 DEPARTMENT, STATE OF CALIFORNIA
 BOARD OF EQUALIZATION, STATE OF
 CALIFORNIA DEPARTMENT OF LABOR,
 SAN MATEO COUNTY TAX COLLECTOR,**

Defendants.

No. C-08-0891-CW

**JOINT CASE MANAGEMENT
 STATEMENT**

**DATE: AUGUST 5, 2008
 TIME: 2:00 P.M.**

The parties to the above-entitled action jointly submit this Case Management Statement.

DESCRIPTION OF CASE

1. A brief description of the events underlying the action:

This is an action to reduce to judgment certain tax assessments made against defendants Jesus and Olga Marquez, Ramon and Juanita Marquez, Taqueria Los Primos, and Taqueria Los Primos No. 2; and to foreclose certain federal tax liens against the real property located at 791 South Johnston Street, Half Moon Bay, California 94019.

///

1 Jesus and Ramon Marquez are brothers and partners in Taqueria Los Primos, 85 North B
2 Street, San Mateo, California 94401, and Taqueria Los Primos No. 2, 376 N. Ellsworth Avenue,
3 San Mateo , California 94401. Both partnerships have outstanding employment tax liabilities.
4 Also, both partnerships continue to accrue FICA and withholding tax liabilities(Form 941) and
5 federal unemployment tax liabilities (Form 940). They are also delinquent in filing some of their
6 Employer's Quarterly Federal Tax Returns (Form 941), Employer's Annual Federal
7 Unemployment Tax Returns (Forms 940), and U.S. Return of Partnership Income (Form 1065).

8 Jesus and Olga Marquez and Ramon and Juanita Marquez have outstanding federal
9 income tax liabilities. Both couples file their federal income tax returns jointly.

10 Notices of Federal Tax Liens have been filed for the tax periods as set forth in the
11 complaint. Additionally, Defendants Employment Development Department, Franchise Tax
12 Board, and State Board of Equalization have recorded tax liens against the subject real property.

13 The real property that is the subject of the foreclosure action , 791 South Johnston Street,
14 Half Moon Bay, California 94019, is the residence of Jesus and Olga Marquez as well as the
15 residence of Ramon and Juanita Marquez. Jesus and Olga hold a forty-five percent interest in the
16 residence as joint tenants with each other. Ramon and Juanita Marquez hold a forty-five percent
17 interest in the residence as joint tenants with each other. The remaining ten percent is allegedly
18 held by Luis and Martha Galindo as joint tenants with each other. The couples' 45%, 45% and
19 10% interests are held as tenants in common. The Galindos do not reside at the foreclosure
20 property, nor do they owe any federal taxes.

21 2. The principal factual issues which the parties dispute:

22 Defendants Jesus and Olga Marquez, Ramon and Juanita Marquez, Taqueria Los Primos,
23 and Taqueria Los Primos No. 2 do not contest the tax liabilities. They are attempting to obtain a
24 home equity line of credit secured by the real property to pay off the tax debts. They hope to
25 know whether or not this is feasible by the Case Management Conference. If they are unable to
26 secure a loan, they would then wish to try to sell the home themselves because they are likely to
27 receive more from a private sale than a foreclosure. The creditors are willing to allow them a
28 reasonable time to sell the property.

1 The only real issue is the priority of lien holders with respect to the property. It is
2 anticipated that the lien holders will be able to agree to their respective priorities.

3 The Galindos have been served but have not answered. The parties are informed that the
4 Galindos were on title solely to assist the Marquez couples in obtaining financing and do not
5 claim an interest in the property. The government will attempt to secure a disclaimer from the
6 Galindos. If it is unable to do so, it will take their default.

7 3. The principal legal issue[s] which the parties dispute:

8 None.

9 4. The other factual issues [*e.g. service of process, personal jurisdiction, subject*
10 *matter jurisdiction or venue*] which remain unresolved for the reason stated below and how the
11 parties propose to resolve those issues:

12 None.

13 5. The parties which have not been served and the reasons:

14 Bank of America. N.A. Bank of America is the holder of the first deed of trust on the
15 foreclosure property. All parties agree that Bank of America had priority over all lien holders
16 except San Mateo County for any unpaid real property taxes. Service was attempted by notice
17 and acknowledgment but failed.

18 Similarly, service was attempted by notice and acknowledgment on California State
19 Department of Labor but failed.

20 6. The additional parties which the below-specified parties intend to join and the
21 intended time frame for such joinder?

22 Bank of America. N.A. and California State Department of Labor.

23 7. The following parties consent to assignment of this case to a United States
24 Magistrate Judge for [*court or jury*] trial:

25 The parties consent to assignment to a magistrate judge for trial.

26 **ALTERNATIVE DISPUTE RESOLUTION**

27 8. [*Please indicate the appropriate response(s).*]

28 _____ The case was automatically assigned to Nonbinding Arbitration at filing and will be ready

1 or the hearing by (date) _____.

2 _____ The parties have filed a Stipulation and Proposed Order Selecting an ADR process
(specify process): _____.

3 _____ The parties filed a Notice of Need ro ADR Phone Conference and the hone conference
4 was held on or is scheduled for _____.

5 X The parties have not filed a Stipulation and Proposed Order Selecting an ADR process
6 and the ADR process that the parties jointly request [or a party separately requests] is
None .

7 The parties believe that they can reach a settlement. If they encounter some difficulties,
8 the parties would request a settlement conference with a Magistrate Judge.

9 9. Please indicate any other information regarding ADR process or deadline:

10 None.

11 DISCLOSURES

12 10. The parties certify that they have made the following disclosures *[list disclosures*
13 *of persons, documents, damage computation and insurance agreements]*:

14 The government will provide documentation of its assessments, copies of notices of
15 federal tax liens, calculations of balances due, and any other pertinent information in its
16 possession that is requested by the defendants. Defendants Employment Development
17 Department, Franchise Tax Board, and State Board of Equalization agree to provide
18 documentation supporting their respective claims, including copies of notices of state tax liens,
19 certificates of delinquencies, and other pertinent information within its possession, upon request
20 by other parties.

21 DISCOVERY

22 11. The parties agree to the following discovery plan *[Describe the plan e.g., any*
23 *limitation on the number, duration or subject matter for various kinds of discovery; discovery*
24 *from experts; deadlines for completing discovery]*:

25 At this time, the parties anticipate that all discovery can be handled informally.

26 TRIAL SCHEDULE

27 12. The parties request a trial date as follows:

28 None at this time.

13. The parties expect that the trial will last for the following number of days:

Not applicable at this time.

RELATED CASES

None.

JOSEPH P. RUSSONIELLO
United States Attorney



DAVID L. DENIER
Assistant United States Attorney
Tax Division
Attorneys for United States of America

Dated: 7/25/08

CINDY L. HO
Attorney for Defendants Jesus Marquez,
Olga Marquez, Ramon Marquez, Juanita
Marquez, Luis Galindo, Martha Galindo,
Taqueria Los Primos and Taqueria Los
Primos No. 2

MICHAEL MURPHY
County Counsel

Dated:

EUGENE WHITLOCK
Deputy County Counsel
Attorney for County of San Mateo Tax
Collector

EDMUND G. BROWN JR.
Attorney General of the State of California

Dated:

KAREN W. YIU
Deputy Attorney General
Attorneys for Defendants Franchise Tax
Board, Employment Development
Department, and Board of Equalization

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Not applicable at this time.

RELATED CASES

None.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated:

DAVID L. DENIER
Assistant United States Attorney
Tax Division
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Dated: 7/24/08

CINDY L. HO
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Olga Marquez, Ramon Marquez, Juanita
Marquez, Luis Galindo, Martha Galindo,
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Attorney General of the State of California

Dated:

KAREN W. YIU
Deputy Attorney General
Attorneys for Defendants Franchise Tax
Board, Employment Development
Department, and Board of Equalization

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2 Not applicable at this time.

3 **RELATED CASES**

4 None.

6 JOSEPH P. RUSSONIELLO
7 United States Attorney

8 Dated:

9 DAVID L. DENIER
10 Assistant United States Attorney
11 Tax Division
12 Attorneys for United States of America

12 Dated:

13 CINDY L. HO
14 Attorney for Defendants Jesus Marquez,
15 Olga Marquez, Ramon Marquez, Juanita
16 Marquez, Luis Galindo, Martha Galindo,
17 Taqueria Los Primos and Taqueria Los
18 Primos No. 2

16 MICHAEL MURPHY
17 County Counsel

18 Dated: 7-25-08

19 EUGENE WHITLOCK
20 Deputy County Counsel
21 Attorney for County of San Mateo Tax
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21 EDMUND G. BROWN JR.
22 Attorney General of the State of California

24 Dated:

25 KAREN W. YIU
26 Deputy Attorney General
27 Attorneys for Defendants Franchise Tax
28 Board, Employment Development
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Not applicable at this time.

RELATED CASES

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Dated:

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Dated:

CINDY L. HO
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Taqueria Los Primos and Taqueria Los
Primos No. 2

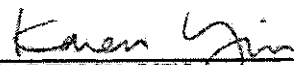
MICHAEL MURPHY
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Dated:

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EDMUND G. BROWN JR.
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Dated: July 25, 2008


KAREN W. YIU
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Attorneys for Defendants Franchise Tax
Board, Employment Development
Department, and Board of Equalization

CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this order. In addition the Court orders:

Dated:

UNITED STATES DISTRICT JUDGE